

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 11

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte EDWIN ZANE BROWN,
ROGER ALAN MERRIMAN and STEVEN TODD BRANDENBURG

Appeal No. 2002-0880
Application No. 09/183,214

ORDER REMANDING TO EXAMINER

On February 8, 2001, appellants filed a Notice of Appeal (Paper No. 6) "from the decision set forth in the Official Action mailed November 3, 2000 [Paper No. 5], in which the Examiner finally rejected claims 1-12 and 14-22." The "Status of Claims" section appearing on page 2 of the Appeal Brief filed April 9, 2001 (Paper No. 7) and Supplemental Appeal Brief filed September 10, 2001 (Paper No. 9) agree. The "Grounds of

Appeal No. 2002-0880
Application 09/183,214

Rejection" appearing on pages 3-8 if the Examiner's Answer mailed December 12, 2001 (Paper No. 10) state:

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Winkler (US Patent No. 4,168,527);

Claims 3, 5, 6-11, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Winkler in view of Bald (US Patent No. 6,011,398); and

Claims 5, 12, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Winkler in view of Bald et al. as applied to claims 1 and 8-10 above, and further in view of Amazeen et al. (US Patent No. 5,043,657).

It should be noted that the Final Rejection mailed June 6, 2001 (Paper No. 8) includes claim 4 (which is replaced by claim 5 in the second rejection above). The Examiner's Answer fails to specifically address the rejection of claim 4. Correction is required.

Accordingly, it is

ORDERED that the application is remanded to the examiner for clarification regarding the ground of rejection for claim 4, and for such further action as may be appropriate.

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the

Appeal No. 2002-0880
Application 09/183,214

status of the appeal (i.e., abandonment, issue, reopening
prosecution).

BOARD OF PATENT APPEALS
AND INTERFERENCES

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